

REMARKS

The Office Action dated December 31, 2003 has been read and carefully considered and the present amendment submitted in order to make certain amendments to the claims in order to better define the invention.

In that Office Action claims 1, 2, 4, 5 and 25 were allowed. Claims 7, 12, 19, 21, 23 and 31-3 were objected to as being dependent upon rejected claims but were indicated as being allowable if rewritten in independent form to include all of the limitations of their base claims and any intervening claims. Claims 6, 8-11, 13-16, 18 and 24 were rejected under 35 U.S.C. 102(b) as being anticipated by Nowell, U.S. Patent 4,646,371. Claims 26-28 were rejected under that same section as being anticipated by Cartwright, U.S. Patent 5,890,244. Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Cartwright in view of Dees, U.S. Patent 5,890,244. Finally, claims 29-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cartwright in view of Lupo, U.S. Patent 4,878,259.

Taking first, the Section 102 rejection, it may be useful, at this point to briefly summarize the present invention in order to put into perspective the very fundamental differences between the present invention and the disclosure of the Nowell patent.

In the present invention, there are protective shields that are intended to enclose certain particularly hazardous locations normally present as sharp edges of a metal bed frame and thus protect the persons in the vicinity of that metal bed frame from being injured by an inadvertent encounter with one of the sharp edges. The sharp edges are typical of such metal bed frames since the structural members, that is, the side rails and the cross members are normally constructed of angle irons and which create sharp edges at certain junctions as well as along the length of the side rails. Those hazardous locations include the ends of the horizontal side rails, the junction points of the horizontal cross members, the vertical leg assemblies that extend

downwardly from those junction points and also the brackets that affix the side rails to a headboard. Accordingly, the protective shields of this invention include **first and second** housings that are joined together at an area such as a junction area with free ends of the first and second housings extended away from that junction area and the housings are adapted to enclose the sharp edges as the free ends are brought together and secured together by a securing means **located at those free edges.**

It is, therefore, important to note, and which will be later be tied in with the specific claim language, that the protective shields surround and enclose certain hazardous areas of a metal bed frame and are made up of first and second housings that are joined together at one junction area and with the free ends that are secured together by some securing means. The sharp edges are enclosed **by the affixation of the housings about the sharp edges** to contain those edges as a protective measure. Thus, the housings are initially joined together as a junction point or area and that junction can be accomplished during the affixation of the two housings to the bed frame in enclosing the sharp edges or the junction may already be present by the use of a joining hinge.

Turning to the Nowell reference, the disclosure of Nowell illustrates a “knockdown type of bed frame constructed predominately from plastic components.” The structural components of Nowell are cylindrical, parallel side-tube members 12 with first and second end portions and transversely extending cross-tube members 14, also having first and second end portions, all of which are formed of a plastic material. There are also leg members 24 formed of plastic material that receive and support the side tube members and the cross tube members. The leg members have longitudinal sockets to receive and support the side tube and cross tube members. At the bottom of the leg members, there can be a glide member 138 or a caster that is affixed thereto.

It is initially noted in Nowell that there is no attempt to enclose sharp ends of the frame and certainly no use of a pair of housings to enclose the sharp edges of anything therebetween since there are no sharp edges seen to be enclosed within the housings. Even if one could assume the ends of the side tube members and cross tube members to be sharp, those ends are fitted

within horizontal sockets in an upper region of the leg assemblies 24 and have no relevance to the addition of attaching the glide members, that is, the glide members do not bear any relation to being affixed to enclose and contain sharp edges. The ends of the plastic cylindrical side tube members and cross tube members of Nowell are thus inserted into the leg members and the glide member simply is affixed to the bottom of the leg members with no mention of enclosing a sharp surface, nor, obviously are there any such sharp surfaces to enclose within any housings of that reference.

With that fundamental distinction between the present inventive protective shields and the structural junctions of various members of Nowell, it is clear that there are no cooperative housings of Nowell that are affixed together to enclose sharp edges of a metal bed frame “to enclose and contain the sharp edges”. Even if one could hypothesize that the leg member 24 and the glide assembly 130 of Nowell are “housings”, the affixing together of those components has nothing at all to do with enclosing sharp edges and therefore, as explained, the purpose of the leg member 24 and glide assembly 130 affixation of Nowell is simply to add the glide assembly to the bottom of the leg member and cannot be described to even be a protective shield, the very basis of Applicants claims.

But even further, taking the language of claim 6, for example, the differences in the construction of the present protective shields and the leg members and glide assemblies of Nowell is even more pronounced in that claim 6 calls for the first and second housings “being joined together and having free ends” as in the prior claim language and there is no such construction in Nowell where the glide assembly 130 is merely pushed up in an interference fit into the bottom of the leg member 24. Those components cannot be said to be joined together having free ends since once the glide assembly is attached, it is attached, and there are no free ends of either of those components be later joined together to contain sharp edges or, for that matter, anything else. To be even more certain, however, Applicant has even amended claim 6 to recite that the first and second housings are joined together “at a junction area” and that there are also free ends that are “extended therefrom”. Those free ends then have a “securing means”

to enable the housings to be affixed together “about said sharp edges of a metal bed frame to enclose and contain the sharp edges between said first and second housings”. The junction area is shown, for example, at 16 in Fig. 1 with the free ends shown as 18 and 20 in that same Figure and which are shown to be extended away or displaced from the junction area so that the free ends can be affixed together enclosing the sharp edges therebetween.

Accordingly, it is submitted that claim 6 is allowable over the Nowell reference since the claim language distinguishes the present invention over the disclosure of Nowell and, as explained, the present protective shields are directed at a total different purpose and result than suggested or at all contemplated in Nowell.

Taking dependent claims 8-10, the claims further define certain locations of affixation of the protective shield and the leg member and glide assembly 130 of Nowell cannot be considered as being affixed to a bed frame member (in fact, it is more reasonable to interpret the leg member of Nowell to actually be a bed frame member). That is particularly true of claim 9 where the Nowell construction would have to consider the leg assembly 24 to be both a “housing” as well as a “leg assembly” the somehow encloses itself. The same illogic applies to somehow combining the leg member 24 with the glide assembly 130 of Nowell to be relative to claim 10 where the protective shield of the present invention is used on “at least one side rail” since the side tube member 12 of Nowell is a plastic cylindrical component with no sharp edges and therefore no reason at all to add a pair of housings to enclose non-existent sharp edges along that side tube member.

In claim 11, the same arguments as to patentability over Nowell are applicable as presented with respect to claim 6, however, claim 6 also adds a further description of the securing means to be an “interlocking securing means”. The Examiner has interpreted “interlocking” to not inherently mean anything besides “contact” and Applicant certainly disagrees with the interpretation. The definition was attributed to an interpretation at dictionary.com, however, it is believed that the Examiner inadvertently omitted a portion of that

definition that totally changes the meaning gleaned by the Examiner from that site and which defines the word “interlocking” in a way that is believed to be more universally accepted. The full definition at dictionary.com is as follows: To become united or joined closely, **as by hooking or dovetailing**. (Emphasis is on the portion of the definition omitted by the Examiner). Those latter words, “hooking” and “dovetailing” which are included in the definition can also be looked up in dictionary.com to clearly show the meaning of “interlocking” to be more than simple contact between two elements. Of course the term is well defined in the specification but it is submitted that external, independent sources are also consistent with the term interlocking as not being used where two elements are merely in contact with each other. The “contact” theory of a definition would eviscerate the very meaning of the word as normally used.

Claim 18 has also been amended in the same manner as claim 6 and is submitted as being allowable over the Nowell reference based upon the same reasons stated with respect to the claim 6 rejection with the additional argument based upon the use of an “interlocking” means as that word is normally defined.

In claims 24 and 25, there is also recited the presence of “indicia” that is provided on the protective mounted shield (claim 24) and on one of the molded housings of the protective shield on a bed frame (claim 25). That use of “indicia” was rejected based on the Nowell reference, and specifically to the element numbered “44” shown, for example, in Fig. 2 of Nowell. That element is described to be a living hinge member in Nowell and does not appear to “indicate” anything but has a specific mechanical function to engage the side tube member 12 where a mattress and box spring are present. Taking the dictionary.com definition of “indicia”, however, the term is defined as “identifying marks; indications” and which can be further broken down into indication which is “To serve as a sign, symptom, or token of; signify” and it is submitted that such definition fails to describe the living hinge 44 that is serving a purpose on the Nowell construction but is not “identifying” anything as that word is defined.

It should also be noted, that the presence of the “indicia” on the particular housing of the present invention is a critical place for that indicia since to remove it would be to remove a safety feature that is incorporated into the bed frame as an important component. Thus, while a company can put a logo or other identifying indicia on a manufactured product, in this case the indicia is on a safety device so that the end user is not likely to remove that indicia since it would disable the safety device. As such, by putting the indicia on the housing as described and claimed, it is assured that the message conveyed by the indicia will remain on the bed frame on a permanent basis and not removed by the end user.

Claims 26-28 were rejected over Cartwright and it is submitted that the Cartwright reference does not disclose first and second molded plastic housings that are “molded in predetermined configuration” and also have “stiffening members to maintain the first and second molded plastic housings in said predetermined configurations”. At most, the device of Cartwright has a fill material 40 but the fill material is not stated or even suggested to maintain housings in a predetermined pre-molded configuration since the padding fills a device that is intended to be wrapped around a hand rail of a bed; an application that does not even involve sharp edges, far less sharp edges of a bed frame that would require molded plastic shields of a particular predetermined configuration that is maintained through the use of stiffening members.

Claims 31-33 were objected to as being dependent upon a rejected base claim and, accordingly, have now been rewritten to include all of the limitations of that base claim as well as the limitations of any intervening claims and are therefore believed to be in allowable form.

Finally, taking claim 17, again Cartwright was used as the principal reference and, again it is submitted that the Cartwright reference does not protect the sharp edges of a bed frame since the device of Cartwright is wrapped around a hand rail of bed and is not a bed frame having sharp edges adapted to support a box spring and mattress. The hand rail of Cartwright does not support anything and the device of Cartwright is not positioned to enclose the sharp edges of a bed frame. The material of the Cartwright device is a wrapping material and not a pair of molded

plastic housings that are positioned to enclose the sharp edges of a bed frame within the language of claim 17 no matter what material is used or substituted into the Cartwright device to provide some hinging function.

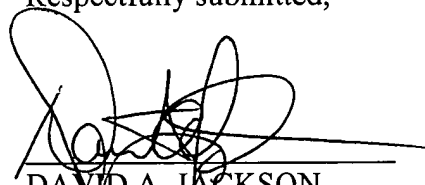
As such it is submitted that all of the claims are patentably distinct over the cited references and an allowance of the present application is respectfully solicited.

Applicant has made an real effort to overcome all of the rejections by the Examiner, however, if there are remaining issues still uncertain, it is respectfully requested that the Examiner contact the undersigned attorney by phone as Applicant is available to conduct a telephonic interview to clear up any outstanding issues or to conduct a personal interview at the U.S. Patent Office to expedite the further proceedings in this application.

**Fees**

Authorization is hereby given to charge Deposit Account No. 11-1153 of the undersigned for any fees that may be outstanding, or in the alternative, for any overpayments that require crediting.

Respectfully submitted,



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